UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

Mr. Louis Moore
Bureau of Reclamation
Mid-Pacific Region
2800 Cottage Way, MP-140
Sacramento, CA. 95825

AUG 2 8 2009

Subject: Draft Environmental Impact Statement for Delta-Mendota Canal and California Aqueduct Intertie (CEQ# 20090242)

Dear Mr. Moore:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

We have rated the DEIS as Environmental Concerns – Insufficient Information (EC-2) (see enclosed "*Summary of Rating Definitions*") due to our concerns regarding CVP contract quantities, the need for more information on the long-term sustainability of water export operations in the Bay Delta, and the limited improvement in water supply reliability and fish protection provided by the proposed Intertie project.

EPA supports increasing the operational flexibility of the Central Valley Project (CVP) and State Water Project (SWP) in order to improve water supply reliability consistent with ecosystem protection, increase fish protections by reducing pumping during critical periods, and aid in adaptation to climate change. We acknowledge the potential for the Intertie project to contribute to the operational flexibility and water supply reliability of the CVP/SWP; however, the Intertie project and its DEIS do not address fundamental issues regarding CVP/SWP water supply reliability. For instance, we continue to be concerned with CVP contract quantities that may have unrealistic water delivery targets. In many years -- and for some water districts, in most years -- the CVP is unable to deliver the entire amount of water called for in the current contracts. In other words, the CVP is "overcommitted," which has the potential to adversely affect Bureau of Reclamation's (Reclamation) ability to constructively assist in addressing California's water and environmental needs.

We believe CVP contract quantities should reflect recent historical realities and factor in any anticipated future limitations on CVP supplies, such as climate change or operationally induced reductions in diversions. We recommend the final EIS (FEIS) describe Reclamation's efforts to better align contract obligations with existing developed water supplies and reasonably foreseeable water availability.

We note that this project is one component of a broader, long-term effort to resolve issues relating to the Bay Delta and the ability to meet the dual objectives of reliable water supplies and ecosystem protection, all of which must be addressed within the context of potential climate change impacts. EPA remains concerned with the long-term sustainability of water export operations in the Bay Delta, as expressed in our May 14, 2009 scoping comments on the Bay Delta Conservation Plan. We recommend that reduced inflow and export scenarios, as a likely future for the Bay Delta basin, be more fully explored in the FEIS.

We recognize that the Bay Delta Conservation Plan and other more comprehensive forums will address the broader, long-term Bay Delta water management and ecosystem protection issues. We look forward to working with Reclamation as we all engage in these forums.

We appreciate the opportunity to review this DEIS. When the FEIS is released for public review, please send one hard copy and one CD ROM to the address above (mail code: CED-2). If you have any questions, please contact me at (415) 972-3521, or contact Laura Fujii, the lead reviewer for this project. Laura can be reached at (415) 972-3852 or fujii.laura@epa.gov.

Sincerely,

Kathleen M. Goforth, Manager
Environmental Review Office
Communities and Ecosystems Division

Enclosure: Summary of Rating Definitions

cc: Steve Tuggle, Western Area Power Authority
Francis Mizuno, San Luis & Delta Mendota Water Authority

SUMMARY OF EPA RATING DEFINITIONS*

This rating system was developed as a means to summarize the U.S. Environmental Protection Agency's (EPA) level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the Environmental Impact Statement (EIS).

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

ADEQUACY OF THE IMPACT STATEMENT

"Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, Policy and Procedures for the Review of Federal Actions Impacting the Environment.